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MAILED

APR 01 2010

OFFICE OF PETITIONS

In re Application of
Lee M. DeGross
Application No. 10/081,579
Filed: February 22, 2002
Attorney Docket No.: None

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ON PETITION

This is a decision in response to the petition, filed December 31, 2009, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, July 25, 2005, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on October 26, 2005. On February 17, 2006, a Notice of Abandonment was mailed.

While this application has been abandoned for an extended period of time, the U.S. Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting the statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." See Changes to Patent Practice and Procedure, 62 Fed. Reg., at 53160 and 53178; 1203 Off. Gaz. Pat. Office, at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the U.S. Patent and Trademark Office).

Accordingly, the petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) a proposed reply; (2) the petition fee of \$810; and (3) an adequate statement of unintentional delay.

This application is being referred to Technology Center AU 2655 for appropriate action by the Examiner in the normal course of business on the response filed December 31, 2009.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions